

Decision _____

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF
CALIFORNIA**Application of Pacific Gas and Electric
(U39E) for Approval of Demand Response
Programs, Pilots and Budgets for 2012-2014.Application 11-03-001
(Filed March 1, 2011)

And Related Matters.

Application 11-03-002
Application 11-03-003**DECISION GRANTING COMPENSATION TO
THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-04-045**

Claimant: The Utility Reform Network (TURN)	For contribution to D.12-04-045
Claimed (\$): 35,269.86	Awarded (\$): 35,244.86 (reduced .07%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Kelly A. Hymes

PART I: PROCEDURAL ISSUES**A. Brief Description of Decision:**

Adopts demand response activities and budgets for Pacific Gas and Electric, San Diego Gas & Electric, and Southern California Edison, allowing the utilities to conduct demand response programs, pilots, and associated activities for the years 2012-2014.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	May 3, 2011	Correct
2. Other Specified Date for NOI:		

3. Date NOI Filed:	May 27, 2011	Correct
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	P.10-08-016	Correct
6. Date of ALJ ruling:	November 22, 2010	Correct
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	P.10-08-016	Correct
10. Date of ALJ ruling:	November 22, 2010	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D. 12-04-045	Correct
14. Date of Issuance of Final Order or Decision:	April 30, 2012	Correct
15. File date of compensation request:	June 29, 2012	Correct ⁽¹⁾
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION**A. Claimant’s contribution to the final decision**
(see § 1802(i), § 1803(a) & D.98-04-059).

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. SCE requested \$229.037 million for its 2012-2014 Demand Response (DR) budget. TURN objected to SCE’s request because SCE failed to include \$164.4 in software and IT costs related to DR programs in its cost-effectiveness tests. TURN argued that all costs associated with the DR programs must be included in the cost effectiveness analysis regardless of the fact SCE was requesting the funding in its GRC. SCE replied that the DR Protocols did not require utilities to incorporate costs from other proceedings when performing	TURN Opening Brief, pp. 2-5. D. 12-04-045, pp. 39-40.	Yes

<p>its cost-effectiveness analysis and argued that if the Protocols required utilities to include all related costs from any proceeding, it would not have used the term “budget category.”</p> <p>The Commission agreed with TURN, stating, “We disagree with SCE’s interpretation of the Protocols requirement regarding costs and reaffirm that all costs directly attributable to a DR program or activity should be included in the cost-effectiveness program analysis, whether the cost is included in that program’s budget or not. If the Commission allowed the Utilities to include and exclude the cost of an activity as they deem fit, we would never know the true costs of a program.”</p>		
<p>2. TURN’s involvement in this proceeding and objections to SCE’s application caused SCE to develop a DR Reporting Template that included all the costs it had previously left out of its analysis, called the “TURN Scenario”.</p> <p>The Commission utilized the TURN-scenario in making its decision regarding SCE’s budget.</p>	<p><i>See</i> SCE-08, “SCE DR Reporting Template – TURN Scenario”.</p> <p>D. 12-04-045, p. 40.</p>	Yes
<p>3. TURN was the only party to discover the deficiencies in SCE’s application, which highlighted the problem with failing to include costs for DR programs that are approved in other proceedings.</p> <p>The Commission pointed to this particular problem as one of the five reasons to hold further workshops to update the models and protocols. The Commission stated, “we note that it is difficult to define the DR portfolio. Because there are a number of DR activities which are approved in separate proceedings, it is challenging to determine the contents of the DR portfolio. The Protocols should be updated to include a definition of what is in the portfolio and</p>	D. 12-04-045, p. 47.	Yes

the process to determine the costs and benefits of its contents. We also direct that future DR Applications consolidate, as much as feasible, all DR related costs so that this analysis can be done.”		

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Correct
c. If so, provide name of other parties: Division of Ratepayer Advocates, Utility Consumers’ Action Network		Correct
d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: DRA was tasked with assessing all three utility applications in this proceeding, and UCAN limited its involvement to an assessment of SDG&E’s application. TURN’s involvement in this proceeding was strictly limited to an analysis of SCE’s application and primarily focused on SCE’s failure to include IT-related DR costs in its cost-effectiveness analysis. Neither DRA nor UCAN addressed this issue, and TURN was able to avoid duplicating any efforts by those parties by only addressing SCE’s application and a very limited set of issues.		Correct

PART III: REASONABLENESS OF REQUESTED COMPENSATION**C. General Claim of Reasonableness (§§ 1801 & 1806):**

a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:	CPUC Verified
Assigning a specific dollar value to TURN’s participation in this proceeding is extremely difficult because TURN limited its involvement to ensuring SCE’s cost-effectiveness analysis accurately reflected the costs of the DR programs and did not recommend specific budget reductions. TURN unearthed SCE’s failure to include \$164.4 million in costs in its cost-effectiveness analysis, which highlighted deficiencies in the DR Protocols. By making the Commission aware of the potential misunderstandings with the current DR Protocols, the Commission will be able to clarify the protocols, which can only serve to benefit both SCE’s ratepayers and California ratepayers as a whole in the future.	We agree with the benefits to the ratepayers that TURN provides here, in addition to the fact that the ratepayer benefits outweigh the costs of TURN’s participation in this proceeding. We find

	TURN's hours and costs reasonable and warrant compensation.
<p>b. Reasonableness of Hours Claimed.</p> <p>Nina Suetake was the primary attorney assigned to this proceeding and was solely responsible for drafting all of TURN's pleadings in this docket. The total number of hours for Ms. Suetake in this proceeding are modest and include the time devoted to developing pleadings, attending settlement discussions, and managing an expert witness and testimony.</p> <p>Marcel Hawiger was originally assigned to this proceeding and his very small number of hours reflect the time necessary to turn the proceeding over to Ms. Suetake.</p> <p>Gayatri Schilberg of JBS Energy was TURN's primary consultant on this proceeding and her hours reflect the time necessary to delve into SCE's DR reporting templates and data supporting SCE's cost-effectiveness analysis as well as drafting testimony and assisting Ms. Suetake draft the brief and reply brief.</p> <p>Jeff Nahigian and William Marcus, both of JBS Energy, devoted only a very limited number of hours to this proceeding to assist Ms. Schilberg in her analysis of SCE's application and testimony. Mr. Marcus specifically limited his analysis to the allocation of software costs over time and Mr. Nahigian limited his assistance to reviewing Ms. Schilberg's revisions to SCE's cost-effectiveness tests to include all costs.</p>	<p>We find the number of hours for each of the attorneys and experts listed to be reasonable with minimal mathematical corrections.</p> <p>In response to questions regarding the basis for rates for Mr. Nahigian, Mr. Marcus, and Ms. Schilberg, TURN provided additional rational noting that D.12-03-024 approved a 2011 rate of \$200 for Ms. Schilberg and D.13-05-008 authorized a 2011 rate of \$250 for Mr. Marcus. TURN requested an hourly rate of \$195 for Mr. Nahigian in 2011 and provided an overview Mr. Nahigian's experience. We find the requested 2011 rate of \$195 for Mr. Nahigian to be reasonable and commensurate with approved rates of other experts of equal experience.</p>
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated its hours by the following activity codes:</p> <p>(GP) General participation: Time spent on activities necessary to participate in the docket that typically do not vary by the number of issues addressed, such as the initial review of the Rulemaking, reading staff issue papers, review of party comments and reply comments, attending prehearing conferences, and reviewing and commenting on the proposed decision.</p> <p>(IT) IT-related costs: Time spent on activities specifically related to the IT-related costs which SCE failed to include in its application. Tasks include developing TURN's position on the IT costs, analyzing SCE's testimony in this proceeding and its GRC proceeding to determine what costs were not included in the utility's DR application, developing TURN's cost-effectiveness tests which include the IT-related DR costs, and drafting testimony and briefs on the subject.</p> <p>(Sett) Settlement: Time spent trying to reach an agreement with SCE regarding</p>	<p>We find the allocation of work by issue to be reasonable.</p>

its IT-related DR costs. While TURN and SCE were ultimately unable to come to an agreement, SCE did develop its TURN-scenario as part of these discussions, which it later included as an exhibit (and which was relied upon by the Commission in its decision).

(GH) General hearing: Time spent preparing cross examination exhibits and preparing for hearings.

(Comp) Compensation Related: Work devoted to preparation of TURN's NOI and request for compensation.

D. Specific Claim*:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Nina Suetake	2011	37.75	295	D.12-05-033	11136.25	37.75	\$295	\$11,136.25
Nina Suetake	2012	2.25	295	See comment #2	663.75	2.25	\$295	\$663.75
Marcel Hawiger	2011	1	350	See comment #3	350.00	1	\$350	\$350.00
Jeffrey Nahigian	2011	9.25	200	Res-ALJ 267	1850.00	9.25	\$195	\$1803.75 ⁽²⁾
Bill Marcus	2011	1.58	250	Res-ALJ 267	395.00	1.58	\$250	\$395.00
Gayatri Schilberg	2011	99.41	200	Res-ALJ 267	19,882.00	98.41	\$200	\$19,682.00 ⁽³⁾
	Subtotal:				34,277.00	Subtotal:		\$34,030.75
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
[Person 1]			\$					
[Person 2]								
	Subtotal:					Subtotal:		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Nina Suetake	2012	6.5	147.50		958.75	6.5	\$147.50	\$958.75
[Preparer 2]								
	Subtotal:				958.75	Subtotal:		\$958.75
COSTS								
#	Item	Detail			Amount	Amount		
1	Photocopies	Copies of TURN, other party and PUC pleadings			\$247.20	\$247.20		

2	Postage	Postage for sending TURN pleadings	\$6.88	\$6.88	
3	Telecommunications	Costs for telecommunications related to this proceeding	\$1.28	\$1.28	
Subtotal:			\$255.36	Subtotal:	\$255.36
TOTAL REQUEST \$:			35,269.86	TOTAL AWARD \$:	\$35,244.86
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate</p>					

E. TURN's Comments and Attachments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service – filed as a separate document
Attachment #2	TURN Hours relating to D.12-04-045
Attachment #3	TURN Expenses relating to D.12-04-045
Comment #1	<p><u>Reasonableness of TURN's Expenses</u></p> <p>The Commission should find TURN's direct expenses reasonable. The expenses consist of photocopying expenses, including the costs of producing the hard copies of TURN's pleadings, telecommunications costs for calls related to this proceeding, and postage costs for mailing TURN pleadings. All costs are directly related to this proceeding and were necessary for TURN's participation in this proceeding.</p>
Comment #2	For the purposes of this compensation request, TURN requests that the Commission apply Ms. Suetake's 2011 hourly rate to her hours in 2012 due to the very limited number of hours spent on tasks for this proceeding in 2012. TURN reserves the right to request an adjustment to Ms. Suetake's 2012 rate in a subsequent compensation request.
Comment #3	For the purposes of this compensation request, TURN requests that the Commission apply Mr. Hawiger's 2010 hourly rate (\$350, authorized in D.11-09-037) to his hours in 2011 due to the very limited number of hours spent on tasks for this proceeding in 2011.

F. CPUC Disallowances & Adjustments:

#	Reason
1	TURN took 88 days to respond to the ALJ's request for information. For the purpose of paying interest on the award in this decision, we consider the request to be complete as of 88 days after filing (i.e., on September 12, 2012) to reflect the delay by TURN in responding to information requests by the ALJ. As a result, interest will begin to accrue on December 9, 2012, the 75 th day after the filing of Claimant's complete request. See Ordering Paragraph 2.
2	Decreased rate to \$195 to reflect requested decrease by TURN.
3	Decreased total hours by 1 hour to correct addition error.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	No

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to Decision 12-04-045.
2. The requested hourly rates for The Utility Reform Network's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$35,244.86.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$35,244.86.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison Company shall pay Claimant their respective shares of the award, based on their California-jurisdictional electric revenues for the 2011 calendar year, to reflect the year in which the proceeding was primarily litigated. Claimant's request is deemed to have been complete as of September 12, 2012. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning December 9, 2012, the 75th day after the filing of Claimant's complete request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____ at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision? No
Contribution to Decision:	D1204045	
Proceeding:	A1103001 et al.	
Author:	Administrative Law Judge Kelly A. Hymes	
Payee:	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	6/29/2012	\$35,269.86	\$35,244.86	No	Adjusted hourly rates and corrected mathematical errors.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Nina	Suetake	Attorney	The Utility Reform Network	\$295	2011-2012	\$295
Marcel	Hawiger	Attorney	The Utility Reform Network	\$350	2011	\$350
Jeffrey	Nahigan	Expert	The Utility Reform Network	\$200	2011	\$195
Bill	Marcus	Expert	The Utility Reform Network	\$250	2011	\$250
Gayatri	Schilberg	Expert	The Utility Reform Network	\$200	2011	\$200

(END OF APPENDIX)